



BOSTON
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
33 ARCH STREET, 24TH FLOOR
BOSTON, MA 02110-1424

April 25, 2023

BY ECF

Honorable Pamela K. Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
New York, NY 11201

**RE: *Securities and Exchange Commission v. Nicosia, et al.*, 1:22-cv-05761-
PKC-CLP**

Dear Judge Chen:

Pursuant to the Court's order of April 4, 2023, the Securities and Exchange Commission provides the following information regarding how it intends to proceed against defendant Fabrizio Di Carlo.

As the Court is aware, Mr. Di Carlo waived service of the summons and complaint in this matter. *See* Dkt No. 17. The SEC and Mr. Di Carlo discussed potential resolution of this matter over the course of several months. *See* Dkt Nos. 14, 18, 20, and 22. Those discussions occurred via emails and phone calls from late September 2022 through late February 2023. In late February 2023, Mr. Di Carlo represented to the SEC that he was seeking notary services in order to sign a draft consent to the entry of final judgment against him. Since that time, however, Mr. Di Carlo has not responded to SEC emails, and the SEC has been unable to reach him by phone.

The deadline for Mr. Di Carlo to answer to the SEC's complaint was April 6, 2023. *See* Electronic Order Dated 2/2/23. Mr. Di Carlo acknowledged receiving an email from the SEC informing him of this deadline. The SEC sent additional emails reminding him of the deadline. The SEC received no response.

Accordingly, the SEC intends to seek a certificate of default, followed by entry of a default judgment against Mr. Di Carlo.

Respectfully submitted,

s/ David J. D'Addio

David J. D'Addio

Nita K. Klunder

Counsel for Securities & Exchange Commission

daddiod@sec.gov

617-573-4526

cc: Fabrizio Di Carlo (by e-mail)